

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT G. PULLEY,

Petitioner,

V.

D. PARAMO, Warden, et al.,

## Respondents.

Case No.: 14-CV-2034 JLS (MDD)

**ORDER GRANTING PETITIONER'S  
MOTION TO PROCEED IN FORMA  
PAUPERIS ON APPEAL**

(ECF No. 58)

Presently before the Court is Petitioner Robert G. Pulley's Motion for Leave to Proceed *In Forma Pauperis* ("IFP") on Appeal. (ECF No. 58.) Federal Rule of Appellate Procedure 24(a)(1)<sup>1</sup> allows a plaintiff to move for IFP status on appeal so long as the plaintiff attaches an affidavit of his inability to pay, claims an entitlement to redress, and states the issues he intends to present on appeal. The determination of whether a plaintiff is indigent, and thus unable to pay the filing fee, falls within the district court's discretion.

*Cal. Men's Colony v. Rowland*, 939 F.2d 854, 858 (9th Cir. 1991), reversed on other grounds, 506 U.S. 194 (1993) (“Section 1915 typically requires the reviewing court to

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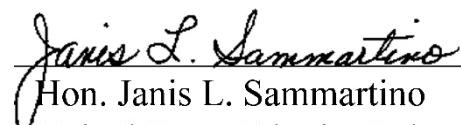
<sup>1</sup> Federal Rule of Appellate Procedure 24(a)(3), which provides that a party who has already been granted IFP status may file an appeal as such without further authorization, is inapplicable because Petitioner paid the requisite filing fee and the Court thus denied as moot his motion to proceed IFP. (*See* ECF No. 18.)

1 exercise its sound discretion in determining whether the affiant has satisfied the statute's  
2 requirement of indigency.”).

3 In the present case, Petitioner has submitted an affidavit demonstrating that he has  
4 roughly \$2.00 in his account, and that his average monthly balance in the past six months  
5 was \$2.78. (ECF No. 57-1, at 4.) Additionally, the average monthly deposits to his account  
6 over that same period was \$28.42. (*Id.*) And Petitioner specifically appeals the Court's  
7 denial of his Petition for Writ of Habeas Corpus. (See ECF Nos. 54, 56, 57.) Given the  
8 foregoing, the Court concludes that Petitioner's application demonstrates he is unable to  
9 pay the requisite fees and costs on appeal. Accordingly, the Court **GRANTS** Petitioner's  
10 Motion to Proceed IFP on Appeal (ECF No. 58).

11 **IT IS SO ORDERED.**

12 Dated: May 22, 2017

  
Hon. Janis L. Sammartino  
United States District Judge

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